

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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AVA MITCHELL,

Plaintiff,

-against-

**MEMORANDUM & ORDER**

03 CV 2356 (RJD)(JMA)

CITY OF NEW YORK, et al.,

Defendants.

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DEARIE, District Judge.

Plaintiff brings suit against defendants under Title VII, 42 U.S.C. § 2000e et seq., and state and city law, for gender discrimination relating to the NYPD's failure to promote her on three occasions. On November 5, 2004, the Court dismissed plaintiff's claims concerning promotions in 1995 and 1996 as time-barred and referred the case to Magistrate Judge Azrack for a hearing on the circumstances surrounding plaintiff's filing of an Equal Employment Opportunity Commission ("EEOC") charge in April 1997.

Magistrate Judge Azrack issued a report on June 7, 2005 recommending a finding that the EEOC charge was filed on April 30, 1997, the date time-stamped on the document. No objections were filed. The Court adopts Magistrate Judge Azrack's Report and Recommendation and, as explained in the Court's November 5, 2004 Order, determines that the case is therefore time-barred. Defendants' motion to dismiss is granted. The Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: Brooklyn, New York  
July 14, 2005

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RAYMOND J. DEARIE  
United States District Judge